



**National Crime Prevention and Privacy Compact
Compact Council Meeting
St. Louis, Missouri
November 2-3, 2016**

MINUTES

Ms. Dawn A. Peck, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on November 2, 2016, in St. Louis, Missouri.

Ms. Chasity S. Anderson, FBI Compact Officer, conducted roll call of the Council members. The following Council members, or their proxies, were in attendance.

State Compact Officers:

- Ms. Katie Bower, Michigan State Police
- Mr. Jeffrey R. Kellett, New Hampshire State Police
- Ms. Julie A. Lackner, Minnesota Department of Public Safety
- Proxy for Ms. Liane M. Moriyama**
- Mr. Joseph N. Morrissey, New York State Division of Criminal Justice Services
- Ms. Dawn A. Peck, Idaho State Police
- Mr. Wyatt Pettengill, North Carolina State Bureau of Investigation
- Mr. Charles Schaeffer, Florida Department of Law Enforcement
- Ms. Carole Shelton, Maryland Department of Public Safety and Correctional Services
- Mr. Bradley Truitt, Tennessee Bureau of Investigation

State/Local Noncriminal Justice Agency Representative:

- Vacant

State/Local Criminal Justice Agency Representative:

- Captain Thomas W. Turner, Virginia State Police

Federal Noncriminal Justice Agency Representative:

- Mr. Merton W. Miller, U.S. Office of Personnel Management

Federal Criminal Justice Agency Representative:

- Mr. Jason A. Henry, U.S. Immigration and Customs Enforcement

Advisory Policy Board Representative:

- Mr. Michael C. Lesko, Texas Department of Public Safety

Federal Bureau of Investigation:

- Mr. Stephen L. Morris, FBI Criminal Justice Information Services Division

Other meeting attendees introduced themselves and the agencies they represented.

(Attachment 1)

Chairman Peck invited Mr. Stephen L. Morris, FBI Criminal Justice Information Services (CJIS) Division Assistant Director (AD), to introduce Assistant Special Agent in Charge (ASAC) of the St. Louis Field Office, Mr. Steve D'Antuono. ASAC D'Antuono welcomed the Council to St. Louis, Missouri, and recognized the Council for its valuable work.

In her opening comments, Chairman Peck recognized the recent Attorney General (AG) appointed Council members. With terms expiring on September 30, 2018, the newly-appointed members include: Mr. Wyatt Pettengill, North Carolina Bureau of Investigation, and Mr. Charles Schaeffer, Florida Department of Law Enforcement. In addition, Chairman Peck recognized new State Compact Officer (SCO) Mr. Terry Cowman, Iowa Department of Public Safety. Ms. Peck noted that Captain Thomas W. Turner of the Virginia State Police was reappointed as the Council's state/local criminal justice agency representative. She also noted that Ms. Denise Matthews of the Georgia Department of Community Health had been selected as the state/local noncriminal justice agency representative following the retirement of Ms. Becky Fleming-Siebenaler.

She expressed her appreciation for proxies that were in attendance. The proxies included: Mr. Jason Bright, Montana Department of Justice; Ms. Julie Lackner, Minnesota Department of Public Safety, serving as proxy for Ms. Liane M. Moriyama on the Council; Ms. Jennifer Sablan, Hawaii Criminal Justice Data Center; and Mr. Chris Schaefer, Colorado Bureau of Investigation.

Next, Chairman Peck recognized representatives of non-party states in attendance. The non-party state representatives included: Ms. Adrienne Aucoin and Ms. Katie Williams of the Louisiana State Police, and Ms. Julie Spotts from the North Dakota Bureau of Criminal Investigation.

Chairman Peck expressed her appreciation for the guest speakers' participation in the meeting. She acknowledged Mr. Richard Conrad, Transportation Security Administration (TSA); Ms. Mary Sprague, U.S. Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), Office of Child Care (OCC); Ms. Shanna Durrant, Utah Bureau of Criminal Identification (BCI); Mr. Dennis DeBacco, National Consortium for Justice Information and Statistics (SEARCH); Ms.

Devon Adams, Bureau of Justice Statistics (BJS); and Mr. Steven Matteson, Internal Revenue Service (IRS).

Chairman Peck reported that two topics were provided as information only and were included in the meeting registration packets; however, they will not be presented at the meeting. These topics include the National Fingerprint File (NFF) Quarterly Statistics and the Next Generation Identification (NGI) Status report. In addition, Chairman Peck advised that Topic #21, the Update on the Compact Ratification Video, would not be presented.

Next, Chairman Peck advised that anyone wishing to submit a topic to be addressed by the Council should submit a topic paper suggestion form to the FBI Compact Officer, Ms. Chasity S. Anderson. She noted that a copy of the topic suggestion form could be obtained on the Council's public Web site, and announced that the deadline for topic paper requests for the spring 2017 Committee meetings is December 2, 2016. In addition, Chairman Peck noted that the Standards and Policy (S&P) Committee and the Planning and Outreach (P&O) Committee meetings are tentatively scheduled for March 22-23, 2017, in Clarksburg, West Virginia.

Chairman Peck announced that a special election for the office of Council Vice Chairman would be held due to Dr. Natalie Chrastil stepping down as the Council Vice Chairman in June 2016. She noted that each of the Council members had been provided with an envelope of voting materials.

An election for the position of Vice Chairman was conducted. Mr. Stephen L. Morris reviewed the applicable section of the Council bylaws, then opened the floor for nominations for the office of Council Vice Chairman. Captain Thomas W. Turner nominated Ms. Katie Bower and the nomination was seconded by Mr. Jason Henry; Ms. Bower accepted the nomination. Ms. Carole Shelton moved to nominate Mr. Jeffrey R. Kellett; Mr. Kellett respectfully declined the nomination. Mr. Joseph N. Morrissey moved to nominate Mr. Charles Schaeffer and the nomination was seconded by Ms. Julie Lackner; Mr. Schaeffer accepted the nomination. Captain Turner moved to close the nominations and the motion was seconded by Mr. Bradley Truitt.

Following remarks from the candidates, Compact Council members cast secret ballots for the office of Council Vice Chairman. At the conclusion of the election, AD Morris announced the election of Ms. Katie Bower to the office of Council Vice Chairman.

Compact Council Action: Captain Thomas W. Turner moved to destroy the voting ballots. Seconded by Mr. Jason A. Henry. Motion carried.

The Council then finalized the draft minutes from the May 2016 meeting, approving them with no changes.

Compact Council Action: Mr. Jeffrey R. Kellett moved to approve the May 11-12, 2016, minutes with no changes. Seconded by Mr. Joseph N. Morrissey. Motion carried.

Agenda topics were then discussed.

Topic #1 Council Chairman's Report

Council Chairman Ms. Dawn A. Peck provided a Council update. She congratulated Ms. Chasity Anderson on her appointment as the new FBI Compact Officer and Ms. Anissa Drabish on her selection as the new Compact Team Supervisor. Chairman Peck also congratulated Ms. Katie Bower on her election as Council Vice Chariman.

Ms. Peck announced that Louisiana signed the Council's Memorandum of Understanding (MOU) in July 2016 and noted that the Council members looked forward to assisting Louisiana with its Compact ratification efforts.

Ms. Peck announced that Ms. Liane Moriyama of the Hawaii Criminal Justice Data Center has been reappointed as the Compact Council representative to the CJIS Advisory Policy Board (APB) through December 31, 2018. She noted that Ms. Denise Matthews of the Georgia Department of Community Health had been selected as the state/local Noncriminal Justice Agency representative to the Council and that her Attorney General appointment would be forthcoming.

Ms. Peck noted the success of the November 1, 2016, NFF State Information Sharing Conference, which provided all Compact states with Quick Reference Guides designed to provide information on frequently asked questions, an opportunity to form relationships within the NFF Mentorship Program, and participation in the NFF Lessons Learned Workshop aimed at the development of a collaborative NFF Lessons Learned document. Lastly, Ms. Peck strongly encouraged all SCOs to take full advantage of all opportunities to expose staff to the Compact Council process to support successful succession planning.

Compact Council Action: This topic was accepted for information only.

Topic #2 FBI's CJIS Division Update

Mr. Stephen L. Morris, FBI CJIS Division AD, provided an overview of the CJIS Division's current initiatives. He opened his presentation by recognizing the selection of

Ms. Chasity Anderson as the new FBI Compact Officer. AD Morris also highlighted the successful deployment of the New National Instant Criminal Background Check System (NICS) in August 2016. AD Morris noted that the Crime Data Modernization effort is currently underway to overhaul the Uniform Crime Reporting (UCR) program, with a target date for transitioning all agencies from Summary reporting to use of the National Incident Based Reporting System (NIBRS) by 2021. He also noted that efforts are underway to establish collection of use of force by law enforcement data.

AD Morris then highlighted several Compact Council initiatives. First, he addressed the efforts of the NFF Qualification Requirements (Quals) Focus Group, noting that the S&P Committee forwarded ten recommendations to the Council for consideration as a result of the NFF Quals Focus Group's work to identify needed revisions based on the full implementation of the NGI in September 2014. AD Morris also highlighted the success of the NFF State Information Sharing Conference held on November 1, 2016, recognizing the benefit of bringing all SCOs together to share knowledge.

AD Morris briefly addressed the revision to the User Fee effective October 1, 2016, highlighting the reduction in the User Fee as well as the elimination of a separate Rap Back User Fee. He also noted that one state and a small number of federal agencies are currently participating in the Rap Back Service, and noted that eleven additional states and six federal agencies are expected to begin Rap Back Service participation in 2017.

AD Morris discussed efforts to obtain missing dispositions, announcing that the percentage of federal arrests with dispositions has increased from 54 percent to 61 percent due in large part to the efforts of the Criminal History Information and Policy Unit. He also noted that FBI Field Office disposition percentage has increased to 84 percent. An additional recent success resulted from the Department of Homeland Security (DHS) Customs and Border Patrol's submission of approximately 1.3 million dispositions.

Lastly, AD Morris expressed his appreciation for the Compact Council's legacy of partnership. He recognized the collaboration of the Compact Council, the SEARCH, the DHHS OCC, and the IRS, noting the benefits all involved parties realize when they collaborate early and often.

Compact Council Action: This topic was accepted for information only.

(Attachment 2)

Topic #3 Advisory Policy Board (APB) Update

Captain Thomas W. Turner presented the APB update and provided an overview of items supported by the APB at its June 2016 meeting, as they relate to the Council. First, Captain Turner noted that the APB addressed 20 recommendations during its June 2016 meeting, including nine related to Identification Services, four related to Security and Access, three related to UCR, one related to the National Crime Information Center (NCIC), one related to notifications, one related to sanctions, and one related to the National Law Enforcement Data Exchange (N-DEx).

Captain Turner briefly addressed topics slated for discussion at the December 2016 APB meeting. Topics included the NICS Query of the N-DEx, the executive concept of operations for the NCIC 3rd Generation, dissemination of disposition leads obtained by the OPM, a use of force update, and the expansion of the UCR Program Police Employee Collection.

Captain Turner announced that the fall 2016 APB meeting will be held December 6-8, 2016, in Phoenix, Arizona. The Working Group meetings are scheduled for March 7-9, 2017, with the location yet to be determined. The Subcommittees will meet April 25-27, 2017, in Clarksburg, West Virginia. The spring 2017 APB meeting is tentatively scheduled for June 6-8, 2017, with the location yet to be determined.

Lastly, Captain Turner thanked all those involved in the APB process and encouraged SCOs to contact him, Designated Federal Officer Mr. R. Scott Trent, or the Council's APB representative Mr. Michael C. Lesko with any questions.

Compact Council Action: This topic was accepted for information only.

(Attachment 3)

Topic #4 Transportation Security Administration's Implementation of Rap Back Services

Mr. Richard Conrad, TSA, provided an update on the TSA's Implementation of Rap Back Services. Mr. Conrad announced that from May 2016 to August 2016, the TSA initiated a Phase One Pilot for airport workers and air carriers with Boston Logan International Airport, Dallas/Fort Worth International Airport, and Delta Airlines. Mr. Conrad noted that following the success of the Phase One Pilot, the TSA is implementing Phase Two, which will deliver full operating capability. Participation by airports and airline carriers is voluntary.

Mr. Conrad noted that an average of 800 Rap Back applicants and renewals were vetted each week during the Phase One Pilot period. More than 120 Rap Back Activity Notifications were received through October 24, 2016, and two individuals had their privileges revoked due to disqualifying crimes.

Mr. Conrad provided an example of the operational impact of the TSA's participation in the Rap Back Service, noting that an employee who was initially issued a badge in May 2016 had his or her access revoked due to a Rap Back notification of a disqualifying arrest. In the absence of the Rap Back service, 22 months may have passed before the individual's disqualifying crime was discovered and his or her access revoked.

Mr. Conrad briefed a number of lessons learned during the TSA's Phase One participation. The TSA identified additional improvements, enhancements, and functionality needed for TSA systems; updated its User Guide and training materials based on user feedback; and recognized that Rap Back Activity Notifications may be generated by digitization of old arrest records. He noted that participating security officers see high value in the Rap Back program.

Mr. Conrad advised that elimination of the separate Rap Back User Fee continues to drive Rap Back participation. In addition, he noted that the TSA will review its policy requirement for re-submission of fingerprints every two years. Mr. Conrad advised that the TSA is planning for bulk subscription of previously submitted fingerprints for badged employees in the aviation sector.

Council members inquired regarding the party responsible for adjudications and review of Rap Back Activity Notifications. Mr. Conrad advised that for the aviation sector, the airport carrier badging offices perform the initial adjudications as well as review of Rap Back Activity Notifications.

Compact Council Action: This topic was accepted for information only.

(Attachment 4)

Topic #5 Child Care and Development Block Grant Act (CCDBG) Update

Ms. Mary Sprague, of the DHHS ACF OCC, provided an update on the CCDBG. Ms. Sprague opened her presentation with a discussion of the background check requirements established by the CCDBG and the Final Rule published in the *Federal Register* by the DHHS ACF OCC. Ms. Sprague noted that the CCDBG background check requirements apply to all licensed, regulated, and registered child care providers, as well as providers participating in the Child Care and Development Fund (CCDF) program. The CCDBG definition of child care staff members includes any individual other than someone related to all children in care who is employed by the child

care provider; or whose activities involve the care or supervision of children; or who has unsupervised access to children. She noted that the Final Rule clarifies the definition of a child care staff member to any individual 18 years of age or older residing in a family care home. She noted that the CCDBGGA requires an FBI fingerprint check, a search of the NCIC, a search of the National Sex Offender Registry, and a search of the state criminal history repositories, sex offender and child abuse and neglect registries in the state where the individuals lives and lived in the previous five years. Ms. Sprague also noted that the Final Rule clarifies that the law's requirement for a check of the NCIC is limited to a check of the National Sex Offender Registration File, as that would be the only NCIC File containing disqualifying information. The Final Rule also requires submission of fingerprints to check the state criminal history repository in the individual's state of residence.

Ms. Sprague noted that the Final Rule requires timely responses to requests from other states, territories, and tribes; policies and procedures must be posted on the state Web sites, including the process for obtaining a background check. The Final Rule also provides for prospective staff members to begin work on a provisional basis with full-time supervision following the completion of either the FBI fingerprint check or the fingerprint-based check of the criminal history repository of the state of residence.

Ms. Sprague advised that the Final Rule clarifies that staff members who are adjudicated as ineligible must be provided with an opportunity to correct any inaccuracies as well as written notice of the adjudication decision. She noted that the deadline for implementation of the CCDBGGA's background check requirements is September 30, 2017, but advised that a one year extension would be granted on a case-by-case basis if the state demonstrably shows a good faith effort toward compliance.

Ms. Sprague then briefed efforts toward creation of a National Interstate Background Check Clearinghouse (NIBCC), a technological solution aimed at allowing the CCDF grantees to exchange state-only criminal, sex offender registry, and child abuse and neglect registry information in a secure manner. Ms. Sprague noted that the DHHS ACF OCC was engaging an advisory group of federal and state stakeholders to develop the system concept. She noted that several obstacles exist, including differences in state disqualifying crimes, security and privacy risk concerns, and significant variation in state processes. Ms. Sprague thanked the Council for its partnership and engagement throughout the implementation of the CCDBGGA's background check requirements.

Council members requested clarification on how states would be reimbursed for provision of criminal history record information through the proposed NIBCC process. Ms. Sprague advised that this issue remained up for discussion and that updates would be provided when available. Council members also asked for a targeted timeframe for completion of the NIBCC concept. Ms. Sprague advised that the NIBCC concept was slated for completion by the end of Fiscal Year (FY) 2017.

Council members requested that the DHHS ACF OCC consider providing a blanket extension to all states for compliance with the CCDBGGA background check requirements.

Compact Council Action: This topic was accepted for information only.

(Attachment 5)

Topic #6 (A) Rap Back Focus Group Update

Ms. Sandra Schooley, FBI CJIS Division staff, presented an update on the work of the Rap Back Focus Group (RBFG). Ms. Schooley advised that the RBFG would be closely examining the Rap Back Triggers and making updates to the Noncriminal Justice Rap Back Service Policy and Implementation Guide. In addition, Ms. Schooley noted that the RBFG would be reviewing the Expungement Trigger in depth. Lastly, Ms. Schooley advised that the RBFG would work to develop and present a Noncriminal Justice Rap Back Service Best Practices Guide.

Ms. Schooley noted that an end-to-end Rap Back testing environment is available for states' use, and encouraged states to contact their Rap Back Points of Contact if interested in testing the Rap Back Service.

Compact Council Action: This topic was accepted for information only.

(Attachment 6)

(B) Rap Back Implementation Status

Ms. Shanna Durrant, Utah BCI, presented an overview of Utah's Noncriminal Justice Rap Back Service Implementation. Ms. Durrant outlined several benefits the Utah BCI has realized as a result of its participation in the Rap Back Service. Benefits included the lack of a separate Rap Back User Fee as of October 1, 2016; an ability to enhance the in-state Rap Back system; and reduction of time and work burden associated with recurrent background checks.

Ms. Durrant detailed the Utah BCI's Rap Back implementation timeline, beginning with documentation and requirements gathering in February 2015 and culminating in full implementation of the Rap Back Service in July 2015. She discussed several policy decisions made by the Utah BCI regarding Rap Back participation. She noted that Utah selected the Person-Based Management Plan, as this mirrored a pre-existing Utah BCI program. She also briefed the Utah BCI's work to develop and

implement a privacy statement mirroring that used by the FBI in relation to the Rap Back Service.

Ms. Durrant briefly addressed challenges the Utah BCI faced in implementing the Rap Back Service, noting these challenges chiefly fell into three categories: legislation, testing, and maintenance. Ms. Durrant advised that legislation-related challenges included crafting of the Appendix 2 document as well as time restraints placed on the Utah BCI's NGI Rap Back implementation due to requirements in the Utah legislation authorizing participation in the Rap Back Service. She advised that testing challenges included the need to develop testing samples as well as an inability to test all possible scenarios prior to full implementation. Ms. Durrant noted that maintenance challenges included training subscribers on the Rap Back Service, auditing related to the Rap Back Service, and developing policies to address fingerprint submissions that reject twice and cannot be retained. Ms. Durrant advised that the Utah BCI is making efforts to lower all image quality reject rates to less than five percent.

Ms. Durrant shared statistics on Utah's Rap Back Service participation. She noted that as of October 11, 2016, 110 total Rap Back Activity Notifications had been received on a subscribed population of 86,795. Of these, 52 were criminal triggers, 30 were disposition triggers, 17 were expungement triggers, and 11 were want-related triggers.

Lastly, Ms. Durrant expressed her satisfaction with Utah's success as the first state user of the the Noncriminal Justice Rap Back Service.

Compact Council Action: This topic was accepted for information only.

(Attachment 7)

Topic #7 SEARCH Update

Mr. Dennis DeBacco, SEARCH, provide an update on the activities and initiatives of the SEARCH. Mr. DeBacco opened his presentation with an explanation of the SEARCH's role as a membership organization comprised of governor-appointed state level justice officials. He noted that a 15-member Board of Directors is elected by and leads the SEARCH membership group.

Mr. DeBacco advised that the SEARCH Membership's next meeting would be held on January 24-26, 2017, in Phoenix, Arizona. He briefed topics slated for discussion at the meeting, including a keynote address from the Intelligence Community relating to the importance of information sharing; a Legislative Update from the SEARCH Government Affairs staff; breakout sessions on the impact of the Adam Walsh Act on the states and the challenges of disposition reporting; and briefings on the national effort to transition to use of the NIBRS for crime data reporting, the work of the Uniform Law

Commission's Committee on Records Accuracy, and a presentation on criminal justice reform from the President of the Justice Management Institute.

Mr. DeBacco noted that recent SEARCH initiatives include updating the SEARCH Quality Assurance Policy, which serves as a checklist, best practices guide, and assessment tool for state criminal history repositories. Mr. DeBacco also advised that the upcoming Survey of State Criminal History Record Information Systems questionnaire is nearing completion and is expected to be available for completion early in calendar year 2017. Lastly, he noted that SEARCH continues to partner with states to assist with implementation of national Noncriminal Justice Rap Back Service, improve warrant and disposition reporting, and publish information bulletins relating to mental health and criminal history records, protection orders, misdemeanor crimes of domestic violence, and warrants or fugitives from justice.

Compact Council Action: This topic was accepted for information only.

Topic #8 Bureau of Justice Statistics Update

Ms. Devon Adams, BJS, provided an update on the BJS's National Criminal History Improvement Program (NCHIP) and the NICS Act Record Improvement Program (NARIP). Ms. Adams provided background on the NCHIP and the NARIP, noting both programs are competitive grant solicitations with awards made in the form of cooperative agreements. She stated that the NCHIP priorities include dispositions and stated that Congressional intent limits awards to those activities which will assist with making records available for purposes of the NICS. Ms. Adams highlighted the progress of NICS record availability as a result of the NARIP, noting that state submission of mental health records has increased nearly ten-fold since 2008.

Ms. Adams then briefed the application review process the BJS follows in determining funding awards. She noted that some of the available FY 2016 funds were not awarded in 2016 due in large part to the following three issues: 1) misalignment of proposed projects/activities with stated objectives; 2) poor quality applications and missing required documentation; and 3) large amounts of unspent funds from previous years at the state level.

Ms. Adams advised that the NCHIP and the NARIP solicitations will be available in the first quarter of calendar year 2017 and open for 60 days. She strongly encouraged states to reach out to their NCHIP program managers for feedback during the application process. Lastly, Ms. Adams highlighted key considerations for those developing NCHIP and NARIP applications, noting the importance of demonstrating the proposed project's tie to improving the quality, completeness, and availability of criminal history and related records at the national level.

Compact Council Action: This topic was accepted for information only.

(Attachment 8)

Topic #9 Federal Partners Report

Mr. Merton W. Miller, OPM, provided the Federal Partners Report to the Compact Council. Mr. Miller opened his presentation with a brief review of the OPM's mission and role in conducting 95 percent of the federal government's background investigations. He also provided statistics on the number of background checks conducted by the OPM in FY 2016.

Mr. Miller shared challenges the OPM faces regarding the timeliness of adjudications, citing the loss of a primary OPM contractor as a major factor in these challenges. Mr. Miller noted that efforts were underway to hire additional federal investigators in an effort to address these challenges.

Mr. Miller briefly addressed the recent establishment of the National Background Investigative Bureau (NBIB) and noted that the Law Enforcement Liaison Office (LELO) had been established to work collaboratively with states to help identify and fill gaps in law enforcement and criminal history records. Mr. Miller then briefed several successes wherein the work of the OPM prevented those that would pose a risk to national security from being placed in a position of trust.

Council members questioned if the mental health information gathered by the OPM in the course of investigations might be shared with the NICS Index. Mr. Miller advised that conversations are ongoing regarding the use of mental health information as it relates to OPM's background investigation work.

Compact Council Action: This topic was accepted for information only.

(Attachment 9)

Topic #10 Update on the Solution for the Retention of Below Threshold Quality Civil Submissions

Mr. Gary R. Stroupe, FBI CJIS Division staff, presented the update on the solution for the retention of below threshold quality civil submissions. Mr. Stroupe announced that in its mission to balance the goals of reducing the number of fingerprints rejected for poor image quality while not reducing the quality of the NGI System, the FBI CJIS Division began to pursue a technological solution. When a tenprint submission is received by the NGI System, the system scores the image quality of each finger individually, then averages the scores of each finger and compares that score to the

system's quality threshold. If the average score is below the threshold, the NGI generates an L0008 reject.

Mr. Stroupe noted that the technological solution developed by the FBI CJIS Division, sometimes referred to as "best seven of ten," would score each finger and calculate the average score as usual; however, if the average score fell below the image quality threshold, the system would then "stamp" the lowest scoring finger and recalculate the average score without this lowest scoring finger. If the average score met the quality threshold, it would then process as normal; however, if the average score was still below the quality threshold, the next lowest scoring finger would then be stamped in the same manner. Up to three fingers could be "stamped" in this fashion before an L0008 reject is generated.

Mr. Stroupe reported that in testing, the "best seven of ten" solution showed promising results. He noted that this solution satisfied the dual goals of reducing fingerprint rejects for image quality and preventing negative impact to the quality of the NGI System. Mr. Stroupe clarified that while the initial impetus for exploring the "best seven of ten" solution was to reduce civil image quality rejects, plans were revised to expand the solution to criminal fingerprint submissions as well based on the positive results. Lastly, Mr. Stroupe noted that the "best seven of ten" solution had been fully analyzed, developed, tested, and was slated for full implementation by the end of calendar year 2016, with statistics on the solution's effectiveness in the operational environment to be provided when available.

Compact Council Action: This topic was accepted for information only.

Topic #11 Legislative Update

Ms. Betsy Taylor, of the FBI Office of the General Counsel (OGC), Criminal Justice Information Law Unit, provided an overview of recently enacted laws and legislation introduced in the 114th Congress that may significantly affect the noncriminal justice use of the Interstate Identification Index (III) and the noncriminal justice user community. First, she discussed the Terrorism Risk Insurance Program Reauthorization Act of 2015, which was enacted on January 12, 2015. This law amended 15 United States Code (U.S.C.) Section 6751 et seq., by establishing the National Association of Registered Agents and Brokers (Association), a non-profit organization, that will provide a mechanism for licensing, continuing education, and other nonresident insurance producers' qualification requirements that may be adopted and applied on a multi-state basis. The law requires the Association, when requested by an insurance producer, to submit fingerprints or other identification information obtained from a state-licensed insurance producer to the FBI for a criminal history record check. The law does not require a state check. The Association's Board of Directors, appointed by the President, is required to prescribe procedures for obtaining and utilizing the fingerprints or other identification information and CHRI, including the establishment of reasonable fees to

defray the expenses of the Association in connection with the criminal history record check. The FBI is required to return all CHRI to the Association and the law provides penalties for someone who knowingly discloses the CHRI to unauthorized entities. To date, the FBI had not been requested to establish procedures for conducting these checks.

Next, Ms. Taylor reviewed the National Defense Authorization Act for FY 2016, enacted on November 25, 2015. This bill amended 5 U.S.C. § 9101, the Security Clearance Information Act (SCIA), by adding additional covered agencies. Those agencies include the DHS, the Office of the Director of National Intelligence, an executive agency authorized to conduct background checks under the Security Executive Agent or Suitability Executive Agent, or a contractor that conducts background investigations on behalf of a covered agency. The law also amended the definition of CHRI set out in 5 U.S.C. § 9101(a)(2) to include state or locality sealed records, if the records are accessible by state and local criminal justice agencies for background check purposes. The CHRI must be made available for the purpose of conducting a basic suitability or fitness assessment for federal or contractor employees, credentialing under the Homeland Security Presidential Directive 12, or for the Federal Aviation Administration (FAA) checks required under the FAA Drug Enforcement Assistance Act of 1988. The law requires a state agency to allow a covered agency to conduct both biometric and biographic searches of its CHRI. Ms. Taylor reported that the CJIS Division is currently working to implement the requirements of the SCIA amendments.

Ms. Taylor briefed the Fixing America's Surface Transportation Act, enacted on December 5, 2015. This law amended Section 1511(a) of the S.A.F.E. Mortgage Licensing Act of 2008 by including other financial service providers as a category of individuals that may submit fingerprints to the FBI through the Conference of State Bank Supervisors (CSBS). The FBI has established procedures with the CSBS to submit these categories of fingerprints to the FBI.

Ms. Taylor discussed the Consolidated Appropriations Act of 2016, enacted on December 18, 2015. This law amends the Scholarships for Opportunity and Results Act (Public Law 112-10) by requiring that background checks be conducted on private elementary or secondary school employees of schools that receive grants who have direct and unsupervised interaction with students.

Next, Ms. Taylor reviewed the Native American Children's Safety Act, enacted on June 3, 2016. This law amended the Indian Child Protection and Family Violence Prevention Act by requiring that before a foster care placement is approved, a background check must be conducted on each covered individual who resides in the household or is employed at the institution in which the foster care placement is made. Each tribal social service agency is required to conduct a fingerprint-based check of the national crime information database; a check of any abuse registry maintained by the Indian tribe; a check of any child abuse and neglect registry maintained by the state in

which the individual resides or resided in the previous five years; as well as any other additional requirement that the tribe determines is necessary, such as voluntary agreements with the states to facilitate the information related to the performance of criminal record checks. The Department of Interior Secretary is required to issue guidance within two years of enactment regarding procedures for a criminal record check of any covered individual who resides in the home, or is employed at the institution and was not the subject of an investigation prior to a foster care placement being made.

Lastly, Ms. Taylor briefed the FAA Extension, Safety, and Security Act of 2016, enacted on July 15, 2016. The law requires the TSA to provide additional PreCheck Program Enrollment capabilities by partnering with the private sector to collect biographic and biometric identification via kiosks, mobile devices, or other mobile enrollment platforms to increase enrollment flexibility to minimize the travel to enrollment centers. Information must be collected in a manner compatible with the National Institute of Standards and Technology. Personally identifiable information must be collected, retained, used, and shared according to the requirements of the Privacy Act of 1974. The TSA must ensure that any enrollment expansion using a private sector risk assessment instead of a fingerprint-based criminal history record check is evaluated and certified by the DHS Secretary and verified by the U.S. Government Accountability Office to be equivalent to the FBI criminal history record checks. In addition, the law requires the TSA Administrator and the FBI Director to fully implement the Rap Back Service for recurrent vetting of eligible TSA-regulated populations with unescorted access for any secure identification display area of an airport, and requires that any status notifications about criminal offenses be limited to disqualifying criminal offenses according to TSA regulations. Ms. Taylor noted that the Rap Back Service was not designed with any capability to screen out offenses and accordingly, there is no practical way for the FBI to implement this requirement.

Compact Council Action: This topic was accepted for information only.

Topic #12 Update on the NFF Qualification Requirements Focus Group

Ms. Riley J. Combs, FBI CJIS Division staff, provided an update on the work of the NFF Quals Focus Group. She provided background on the NFF Quals Focus Group, noting that it was established in November 2015 to examine the NFF Quals and determine if the standards remain appropriate in light of the NGI Increment 4 deployment. Ms. Combs advised that the NFF Quals Focus Group had met six times over the last year and in September 2016 proposed ten recommendations to the S&P Committee for its consideration. Ms. Combs then briefed each of the ten S&P Committee recommendations based on the work of the NFF Quals Focus Group.

Ms. Combs stated that during review of Qual I(D), which outlines image quality reject rate requirements for criminal fingerprint submissions, the NFF Quals Focus Group

noted that the reject rate had historically been calculated based only on Criminal Answer Required (CAR) Types of Transaction (TOTs). As the NFF states send all second and subsequent criminal fingerprint submissions using the Biometric Image Submission (FIS) TOT, the NFF Quals Focus Group recommended that the image quality reject rate calculation include both CAR and FIS TOTs to better reflect true criminal image quality reject rates.

Compact Council Action: Mr. Charles Schaeffer moved to include FIS TOTs when calculating criminal fingerprint image quality reject rates. Seconded by Mr. Wyatt Pettengill. Motion carried.

Next, Ms. Combs noted that Qual I(D) as currently written included a criminal fingerprint image quality reject rate standard for both the NGI System rejects and the CJIS service provider rejects. She noted that the NFF Quals Focus Group felt this structure was valuable and should remain.

Compact Council Action: Mr. Charles Schaeffer moved to continue to report on NGI System image quality rejects and service provider image quality rejects separately. Both standards should be located within a single qualification requirement. Seconded by Captain Thomas W. Turner. Motion carried.

Ms. Combs noted that the NFF Quals Focus Group discussed placing the numeric error code(s) associated with the NGI system rejects and the CJIS service provider rejects in a parenthetical within Qual I(D) to assist with ease of reading.

Compact Council Action: Mr. Charles Schaeffer moved to place the code number representing the particular error type in parentheses within Qual I(D) as presented. Seconded by Ms. Carole Shelton. Motion carried.

Ms. Combs briefly discussed the NFF Quals Focus Group's review of the criminal fingerprint image quality reject rates set in Qual I(D). She stated that when the NFF Quals were originally drafted, the majority of fingerprints were reviewed by the CJIS service providers, with very few fingerprints being rejected by the NGI predecessor system. Accordingly, the system image quality reject rate requirement was set very low, at 0.5 percent, in contrast with the CJIS service provider image quality reject rate requirement, at 5 percent. With the implementation of the NGI Increment 4, more than 92 percent of fingerprints are processed "lights out" by the NGI System with no human intervention. As such, the NFF Quals Focus Group recommended adjusting Qual I(D) to better reflect current processing by slightly raising the NGI System image quality reject rate and lowering the CJIS service provider reject rate.

Compact Council Action: Mr. Charles Schaeffer moved to modify the criminal NGI system image quality reject rate requirement in Qual I(D) as follows (additions in **red bold underline**):

*“The total percentage of Next Generation Identification (NGI) system rejects due to low image quality on criminal fingerprint submissions shall be less than **or equal to** 0.5% **0.75%** of the total criminal fingerprint submissions.”*

Seconded by Mr. Joseph N. Morrissey. Motion carried.

Mr. Charles Schaeffer moved to modify the criminal service provider image quality reject rate requirement in Qual I(D) as follows (additions in **red bold underline**):

*“The total percentage of service provider rejects due to insufficient, indiscernible, erroneous or incomplete criminal fingerprint submission images shall be less than **or equal to** 5% **0.50%**.”*

Seconded by Mr. Joseph N. Morrissey. Motion carried.

Ms. Combs stated that the NFF Quals Focus Group discussed the possible addition of a civil fingerprint image quality reject rate requirement, ultimately supporting the addition of such, and considered what the appropriate reject rates would be for such a requirement based on a review of recent statistics.

Compact Council Action: Mr. Charles Schaeffer moved to add a civil fingerprint image quality reject rate requirement to the NFF Quals. Seconded by Mr. Joseph N. Morrissey. Motion carried.

Ms. Charles Schaeffer moved to establish a civil NGI system image quality reject rate requirement within new Qual I(E) as follows:

“The total percentage of NGI system rejects (L0008) due to low image quality on civil fingerprint submissions shall be less than or equal to 5.00% of the total civil fingerprint submissions.”

Seconded by Mr. Joseph N. Morrissey. Motion carried.

Mr. Charles Schaeffer moved to establish a civil service provider image quality reject rate requirement within new Qual I(E) as follows:

“The total percentage of service provider rejects (L0116, L0117, L0118) due to insufficient, indiscernible, erroneous or incomplete civil fingerprint submission images shall be less than or equal to 0.50%.”

Seconded by Mr. Joseph N. Morrissey. Motion carried.

Ms. Combs noted that in addition to the recommended changes to the NFF Quals, the NFF Quals Focus Group made two additional recommendations as a result of the review of issues related to image quality reject rates. It was noted that both these recommendations would also be forwarded to the CJIS APB in spring 2017. First, Ms. Combs noted that the NFF Quals Focus Group requested research on what would cause a CJIS service provider to generate an L0118 reject on a fingerprint submission. This research indicated that CJIS service providers select a literal reason for rejection and the NGI System assigns the appropriate numeric error code. Eight unique reject literals correspond with the L0118 error code. The NFF Quals Focus Group discussed that for training purposes, it would be helpful for each of these eight unique reject literals to correspond with a unique reject numeric.

Compact Council Action: Mr. Charles Schaeffer moved to consider applying a unique identifying error number to each of the eight L0118 error conditions. Seconded by Mr. Wyatt Pettengill. Motion carried.

Ms. Combs noted that the NFF Quals Focus Group members discussed that many states have the capability to replace a rolled fingerprint impression with the corresponding plain fingerprint impression to satisfy a sequence error or perform rolled print substitution if the rolled fingerprint impression is of significantly lower quality than the corresponding plain impression. However, states noted that the altered image could not be forwarded to the FBI's NGI System. The NFF Quals Focus Group suggested that if the CJIS service providers had this capability to perform rolled print substitution and/or correct sequence errors, it could significantly reduce image quality reject rates.

Compact Council Action: Mr. Michael C. Lesko moved to request that the FBI explore a system modification to allow FBI service providers to perform rolled print substitution and/or correct sequence errors. Seconded by Mr. Charles Schaeffer. Motion carried.

Ms. Combs closed the presentation with a brief review of future items slated for discussion by the NFF Quals Focus Group.

(Attachment 10)

Topic #13 Privacy Update: NGI System of Records Notice (SORN) and Privacy Act Exemptions

Ms. Roxane Panarella, of the FBI OGC Privacy and Civil Liberties Unit, provided an overview of the NGI SORN and Privacy Act Exemptions. Ms. Panarella noted that over 100 comments were received on the NGI SORN and Notice of Proposed Rulemaking (NPRM) since publication in the *Federal Register*. She stated the greatest areas of concern related to access and amendment of individual records, pointing out that this concern may stem from a lack of understanding given the availability of access and amendment of individuals' records via the Departmental Order 556-73 process. Ms. Panarella noted that all comments received on the NGI SORN and the NPRM would be addressed. Lastly, Ms. Panarella briefly discussed the recent U.S. Government Accountability Office report related to facial recognition and noted that work was ongoing to address questions related to the NGI System's facial recognition capabilities.

Compact Council Action: This topic was accepted for information only.

(Attachment 11)

Topic #14 Compact Council Strategic Plan Update

Ms. Anissa C. Drabish, FBI CJIS Division staff, presented the Council's Strategic Plan Update. She reported that during the September 2016 P&O Committee meeting, the members reviewed the detailed Status Report and focused only on those items that were scheduled for review. She noted that for the Council's update, the members should refer to the Scorecard. As a reminder, the Scorecard is designed to provide a quick visual status of each of the strategic actions. She remarked that all of the strategic actions are green or blue, which indicates the Council is proceeding on schedule toward meeting its goals and objectives.

After quickly reviewing the setup of the Scorecard, Ms. Drabish reviewed each of the objectives, provided a status update, and presented several accomplishments that supported each of the strategic actions. Some of the successes included the NFF State Information Sharing Conference held on November 1, 2016, updates and additions to the Noncriminal Justice Online Policy Resource, presentation of information on the proposed technological solution to allow for retention of below threshold quality fingerprint submissions, and Louisiana's signing of the Council's MOU in July 2016.

Lastly, Ms. Drabish noted that during its September 2016 meeting, the P&O Committee recommended that the strategic plan be reviewed in spring 2017 to ensure that the goals, objectives, and strategic actions are still relevant. The P&O Committee also recommended that the Council's Mission Statement be revised in conjunction with updates to the Strategic Plan.

Compact Council Action: Mr. Joseph N. Morrissey moved to refine the mission statement and bring proposed revisions to the P&O Committee spring 2017 meeting for consideration. Seconded by Mr. Charles Schaeffer. Motion carried.

(Attachment 12)

Topic #15 Internal Revenue Service's Requirement for Conducting Background Checks

Mr. Dominic A. Santoleri, IRS Office of Safeguards, provided an overview of background investigation requirements for state agency partners with access to Federal Tax Information (FTI). First, Mr. Santoleri briefly explained the role of the IRS Office of Safeguards in monitoring access to FTI by federal, state, and local agencies and ensuring such agencies safeguard FTI in the same manner as the IRS. He noted that access to FTI by these agencies is authorized under Internal Revenue Code Section 6103(p)(4) and that *Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies*, provides the guidelines for appropriately safeguarding FTI. Mr. Santoleri noted that a recent Inspector General audit of the IRS Office of Safeguards recommended ensuring that background investigation requirements for all agency employees and contractors that have access to FTI are consistent with IRS background investigation requirements. In response to this audit finding, the IRS Office of Safeguards established specific requirements for background investigations and communicated those to federal, state, and local agencies accessing FTI. Mr. Santoleri emphasized that the IRS recognizes the criticality of partnership with the Council in implementing these background check requirements.

Mr. Santoleri noted that most states already have current standards for background checks. He stated that the IRS recognizes a need for state flexibility in determining how background investigation requirements will be utilized based on agency and position type; he noted that some aspects of the background investigation requirements have already been scaled back based on stakeholder feedback.

Mr. Santoleri stated that background investigations for each individual granted access to FTI must include an FBI fingerprint-based check, a check of local law enforcement agencies where the subject has lived, worked, and/or attended school in the last five years, and a validation of the individual's eligibility to legally work in the United States. He noted that states without Public Law 92-544 legislation authorizing FBI fingerprint-based checks of employees with access to FTI are encouraged to pursue such legislation at the state level. Mr. Santoleri also clarified that agencies unable to comply with the FBI fingerprint-based check requirement due to a lack of authorizing legislation

will not be penalized, but will be asked to develop a plan to allow the agency to come into full compliance with the background investigation requirements.

Council members requested that the IRS Office of Safeguards provide a list of agencies in receipt of FTI in each state to be passed on to all SCOs. Council members also requested that specific reference to the FD-258 standard fingerprint form be removed from Publication 1075 to help clarify that a hardcopy fingerprint card is not required.

Compact Council Action: This topic was accepted for information only.

(Attachment 13)

Topic #16 Information Security Office Program Update

Mr. George A. White, FBI CJIS Division staff, provided an update on the activities of the Information Security Office (ISO) Program. He noted that the APB Security and Access (S&A) Subcommittee and the ISO Program's recent efforts fall primarily into discussion of mobile devices, encryption, and cloud services.

Mr. White briefly addressed the work of the S&A Subcommittee's Mobile Task Force, noting efforts to ensure that the *CJIS Security Policy*'s requirements related to mobile device management are reasonable and appropriate. He next noted the recent implementation of federal requirements related to encryption on public facing Web sites, as well as ongoing discussions about policy related to encryption at rest.

Mr. White briefly addressed the S&A Subcommittee's recently-established Cloud Task Force efforts to ensure that cloud service providers are appropriately complying with security standards, including the *CJIS Security Policy*. Mr. White also noted that the S&A Subcommittee continues to explore policy decisions that may reduce duplicative background checks for vendors who often perform work for multiple states without increasing risk.

Mr. White strongly encouraged noncriminal justice agency attendance at ISO-sponsored conferences, and invited SCOs to involve the CJIS ISO Program Office in their in-state noncriminal justice conferences.

Lastly, Mr. White advised of an increase in the number of encrypted botnet-driven Distributed Denial of Service attacks, noting that these types of attacks are more difficult to identify and encouraging SCOs to ensure their states are protected against such attacks.

Compact Council Action: This topic was accepted for information only.

Topic #17 User Fee Update

Ms. Linda S. Patterson, FBI CJIS Division staff, provided an update on the FBI User Fee. Ms. Patterson opened her presentation with a briefing on the methodology used by the FBI CJIS Division's Fee Programs Unit in identifying the new user fee rate. Ms. Patterson observed that effective October 1, 2016, the fee for fingerprint-based checks was reduced by \$2.75 for employment and licensing and volunteers respectively, and the fee for name-based checks was reduced by \$0.25. In addition, Ms. Patterson noted that the separate fee for participation in the Rap Back Service was eliminated effective October 1, 2016.

Compact Council Action: This topic was accepted for information only.

(Attachment 14)

Topic #18 Revisions to the Frequently Asked Questions Brochure

Ms. Melody K. Ferrell, FBI CJIS Division staff, provided an overview of proposed revisions to the *Frequently Asked Questions Regarding the National Crime Prevention and Privacy Compact Act of 1998* (FAQ) Brochure. Ms. Ferrell provided background on the initial development of the FAQ Brochure, noting that in November 2015, the Council requested that the Council's educational documents be revised to include information on common misconceptions regarding Compact ratification. Ms. Ferrell then briefly discussed the common misconceptions regarding Compact ratification proposed for incorporation within the FAQ Brochure, including that a state must join the NFF Program within one year of Compact ratification, that an NFF state must maintain a 24/7 operation, that an NFF state requires additional staffing to review out-of-state record requests to comply with state dissemination laws, and that ratification of the Compact would interfere with in-state dissemination laws. In addition, Ms. Ferrell reviewed perceived barriers to Compact ratification proposed for incorporation in the FAQ Brochure; these included lack of legislative support, lack of continuity at the state agency or legislators, and competing state priorities. Ms. Ferrell also noted that minor administrative changes were made to the FAQ Brochure to update contact information.

Compact Council Action: Mr. Joseph N. Morrissey moved to approve the red-lined changes to the FAQ Brochure as presented. Seconded by Mr. Wyatt Pettengill. Motion carried.

(Attachment 15)

Topic #19 Best Practices for Fingerprint Submissions

Ms. Riley J. Combs, FBI CJIS Division staff, provided a review of best practices for fingerprint submissions. She noted that the impetus for this presentation was the work of the NFF Quals Focus Group's discussions of image quality reject rate requirements. Ms. Combs briefly highlighted examples of the impact of rejects for low fingerprint image quality in the criminal justice, noncriminal justice, and national security realms. She then reviewed best practices for fingerprinting, including cleaning Live Scan device platens between fingerprinting, making use of built-in image quality controls, and taking two sets of fingerprints when possible. Ms. Combs noted that if a fingerprint submission is rejected by the NGI System for low image quality with an L0008 error code, submitting the same set of low quality fingerprint images a second time will also result in an L0008 error. Lastly, Ms. Combs highlighted several resources available to assist agencies with capturing quality fingerprint images.

Compact Council Action: This topic was accepted for information only.

(Attachment 16)

Topic #20 Sanctions Committee Report

Ms. Julie A. Lackner, Sanctions Committee Chairman, addressed the Council with the Sanctions Committee's report. The Sanctions Committee met on November 1, 2016, and reviewed responses to the Sanctions' letters that were disseminated based on the review of audit findings during the May 2016 meeting. The Sanctions Committee reviewed the responses to the Sanctions letters and determined that two states would be sent letters of closure, one federally regulated agency would be sent a letter of closure contingent on completion of open corrective actions by specified dates, and twelve states and one FBI-approved channeler would be sent follow-up letters.

The Sanctions Committee reviewed audit findings from one NFF state. Recommendations were based on the following criteria: compliance with the NFF qualifications, violations of articles of the Compact to include III misuse, and Compact rules. Based on these requirements, the Sanctions Committee recommended that one state be sent a letter of recommendation.

The Sanctions Committee reviewed audit findings from one Compact state. Recommendations were based on the following criteria: violations of articles of the Compact to include III misuse and the Compact rules. Non-NFF Compact states are also reviewed for compliance with the NFF qualifications; however, these findings are only provided for informational purposes. Based on these requirements, the Sanctions Committee recommended that one state receive a letter of recommendation.

The Sanctions Committee reviewed audit findings from two MOU states. Recommendations were based on the following criteria: violations of articles of the Compact to include III misuse and the Compact rules. Based on these requirements, the Sanctions Committee recommended that two states receive letters of recommendation.

The Sanctions Committee reviewed audit findings from two non-Compact, non-MOU states. Recommendations were based on the following criteria: Non-Compact and non-MOU states are reviewed for violations of articles of the Compact to include III misuse and the Compact rules. Based on these requirements, the Sanctions Committee recommended that one state receive a letter of commendation and closure, and one state receive a letter of recommendation.

The Sanctions Committee reviewed audit findings from four federally regulated agencies for appropriate action. Recommendations were based on the following criteria: violations of articles of the Compact to include the III misuse and Compact rules. Based on these requirements, the Sanctions Committee recommended that two agencies receive letters of commendation and closure, and two agencies receive letters of recommendation.

In addition, Ms. Lackner noted that the CJIS Audit Unit staff provided the Sanctions Committee with an overview of findings from the Information Technology Security Audits of Noncriminal Justice Agencies.

Compact Council Action: Ms. Julie A. Lackner moved to accept the Sanctions Committee Report. Seconded by Mr. Bradley Truitt. Motion carried.

Mr. Timothy Neal, FBI CJIS Division staff, presented an ad hoc topic discussed during the November 2016 Sanctions Committee meeting. He noted that in June of 2016, the APB passed a motion tasking the CJIS Audit Unit staff to update the sanctions information housed in the *NCIC Operating Manual* to include only a reference to the APB sanctions information with a link to the Web site where the APB sanctions information is maintained. Mr. Neal noted that the Sanctions Committee discussed handling information regarding the Council sanctions process in a similar manner.

Compact Council Action: Ms. Julie A. Lackner moved to modify the *NCIC Operating Manual* to remove sanctions procedure language and include only a reference to the Compact Council sanctions process information located on the Compact Council's Web site; and to add similar reference language to the *CJIS Security Policy*, the *N-DEx Policy and Operating Manual*, and the *III/NFF Operational and Technical Manual*. Seconded by Mr. Bradley Truitt. Motion carried.

Mr. Neal then provided the proposed language to be inserted in the *NCIC Operating Manual* and other CJIS Systems manuals as listed.

Compact Council Action: Ms. Julie A. Lackner moved to adopt the language as proposed by the Sanctions Committee, presented, and listed below:

“The National Crime Prevention and Privacy Compact (Compact) Council Sanctions Committee is responsible for ensuring that use of the III System for noncriminal justice purposes complies with the Compact and with rules, standards, and procedures established by the Compact Council. As such, the Sanctions Committee reviews the results of audits conducted by the FBI of participants in the FBI’s Criminal Justice Information Services Division (CJIS) programs. The Sanctions Committee reviews the audit results and the participant’s response to determine a course of action necessary to bring the participant into compliance and make recommendations to the Compact Council or the FBI. Additional information on the Compact Council Sanctions process is available on the Compact Council’s web-site.”

Seconded by Ms. Carole Shelton. Motion carried.

(Attachment 17)

Topic #22 Sharing Information on Lessons Learned During NFF Implementation

Mr. Joseph N. Morrissey, New York Division of Criminal Justice Services (NY DCJS) shared lessons learned by the NY DCJS during its NFF implementation. He opened his presentation by highlighting the benefits of NFF implementation and sharing how NY DCJS leveraged those benefits in moving toward NFF implementation.

Mr. Morrissey then shared planning steps undertaken by the NY DCJS, including formation of a task force consisting of subject matter experts from all involved areas, recording minutes at all task force meetings, developing an NFF implementation plan project health check, hosting an NFF onsite readiness assessment, and use of NY and FBI action item lists. Mr. Morrissey stated that NY DCJS recognized the need for training based on changes associated with NFF implementation and developed training documents to assist users, noting he would be happy to share the training documents with any interested SCOs.

Mr. Morrissey then briefly addressed lessons learned. These included the importance of communicating with users prior to NFF implementation, ensuring that single-source/multi-source flags are set correctly, and taking advantage of the FBI’s end-

to-end test system when programming for NFF participation. Lastly, Mr. Morrissey noted that the NFF implementation project was nominated for a Best of New York award.

Compact Council Action: This topic was accepted for information only.

(Attachment 18)

Topic #23 Biometric Interoperability Update

Mr. Robert D. Holman, FBI CJIS Division staff, presented the biometric interoperability update, which provides the NGI users with information regarding the implementation of biometric-based interoperability between the FBI CJIS Division and other federal agencies. Mr. Holman reviewed biometric interoperability progress and provided updated statistics related to interoperability searches. He briefly touched upon the progress made in relation to biometric interoperability, stating that all 50 states and 4 of the 5 U.S. territories participate in interoperability and noting that work is ongoing to implement interoperability participation with the remaining U.S. territory.

Mr. Holman reported that the CJIS Division had been working with INTERPOL Washington, as well as the DHS Office of Biometric Identity Management, in an effort to make INTERPOL notices accessible to the DHS stakeholders via the NGI System. The first phase was completed in November 2013 and provides the initial capability for the automated sharing to the DHS's Automated Biometric Identification System (IDENT) through the NGI System. He noted that when the final phase of this project is complete, all INTERPOL notices will be removed from the IDENT system and IDENT customers will search against INTERPOL notices using the NGI System.

Mr. Holman noted that the technical documentation needed to support multimodal sharing between the NGI System and the Department of Defense Automated Biometric Identification System (ABIS) was recently completed, with the first additional type of transaction deployed for a search of the ABIS in September 2016.

Mr. Holman noted that as of June 2015, the CJIS Known or Suspected Terrorist (KST) feed to the DHS IDENT was discontinued; the DHS IDENT now receives the KST data directly from the Terrorist Screening Center.

Mr. Holman advised that the MOU between the Texas Department of Public Safety, the Department of State, DHS, and the FBI was recently signed to pave the way for a latent interoperability pilot.

Lastly, Mr. Holman provided a brief overview of next steps for interoperability. These included updating the MOU between the DHS and the Department of State and efforts to transition from shared data to shared services.

Compact Council Action: This topic was accepted for information only.

(Attachment 19)

Topic #24 (A) Update on Missing Dispositions

Ms. Paula J. Zirkle, FBI CJIS Division staff, provided an overview of efforts to obtain missing dispositions. She noted efforts to obtain missing FBI field office dispositions, noting the percentage of records with complete dispositions is now 84 percent as a result of those efforts. She noted the next priority is to obtain missing federal dispositions and briefed several initiatives related to this priority. Ms. Zirkle also announced an effort toward obtaining missing dispositions on pseudo-pointer records, emphasizing that the most desirable outcome will be for states to take control of as many pseudo-pointer records as possible. She encouraged all states to take advantage of the Computerized Criminal History Correlation process to make efforts to take control of pseudo-pointer records, and briefed initiatives the FBI CJIS Division is undertaking to assist states in this. Lastly, Ms. Zirkle noted that the next, disposition efforts would be focused on those states that do not support all purpose codes.

Compact Council Action: This topic was accepted for information only.

(B) Update on the Automated Disposition and Processing Techniques

Ms. Paula J. Zirkle, FBI CJIS Division staff, provided an update on the Automated Disposition and Processing Techniques (ADAPT). She noted that she hoped to provide an update in spring 2017 on delivery of a bulk electronic disposition submission portal to be housed on the Law Enforcement Enterprise Portal (LEEP). This effort aims to provide a secure and timely method for submission of bulk electronic dispositions. Ms. Zirkle also noted that efforts are underway to create an electronic R-84 form to be available for submission directly from the LEEP.

Compact Council Action: This topic was accepted for information only.

Topic #25 Departmental Order (DO) Update

Ms. Paula J. Zirkle, FBI CJIS Division staff, opened her presentation with a review of U.S. Department of Justice Order 556-73 (DO). The DO process provides an individual with a method to obtain a copy of his or her own Identity History Summary housed at the FBI or confirm the non-existence of such a record for purposes of individual review and challenge.

Ms. Zirkle briefed the implementation of the DO Electronic Solution (DOES) Pilot, which provides individuals with the ability to submit a request and payment via <www.Pay.gov>. Fingerprints are received through the U.S. Mail. The response time for the DOES Pilot is less than 48 hours, compared with 51 days for the normal DO process. She also noted that efforts are underway to expand the DOES Pilot nationwide.

Ms. Zirkle briefed efforts to reduce third party dissemination of CHRI obtained through the DO Process to discourage its inappropriate use for employment and licensing purposes. Efforts include adding a caveat to the DO response letters, monthly e-mails to all State Identification Bureaus (SIBs) and CSOs listing entities within the state requesting third party dissemination of CHRI, and partnership with the Corporation for National and Community Service (CNCS) to reduce use of the DO Process for background checks under the Serve America Act.

Lastly, Ms. Zirkle noted that work continues toward publication of an NPRM in the *Federal Register* to modify the process to cease third-party dissemination of DO responses. Ms. Zirkle observed that a recent development revealed an additional population currently using the DO process to perform background checks prior to returning firearms to law enforcement officers which will need to be appropriately redirected before the NPRM is published.

Compact Council Action: This topic was accepted for information only.

(Attachment 20)

Topic #26 **Report on the CJIS APB's Working Groups Topic – FBI's Compliance with 28 Code of Federal Regulations (CFR) Section 20.32 Regarding the Storage of Non-Serious Offenses in the NGI**

Ms. Paula J. Zirkle, FBI CJIS Division staff, provided the report on the CJIS APB's Working Groups Topic on the FBI's compliance with 28 CFR § 20.32 regarding the storage of non-serious offenses in the NGI System. She provided a brief background. She noted that in 1974, 28 CFR § 20.32 became effective, prohibiting the retention of nonserious offenses in the FBI's database. In 2001, the CJIS APB made a recommendation that the FBI pursue publishing a rule that would allow for retention of nonserious offenses. In 2005, a letter went out to all CJIS Systems Officers and SIBs providing the option to submit nonserious offenses for retention. This was followed by an NPRM in 2006 and Congressional hearings on the subject in 2007. In addition, every state provided the FBI with a written letter in 2007 providing that if the state marked a nonserious offense for retention, it should be retained. Following these developments and in anticipation of a rule change, the FBI ceased vetting nonserious offenses.

Ms. Zirkle noted that the anticipated rule change did not take place as expected and stated that the FBI CJIS Division is currently performing analysis to identify nonserious offenses within the NGI System and determine the impact of retaining those nonserious offenses on the reentry of individuals after their release from prison. The FBI CJIS Division hopes to submit the results of such analysis to the Department of Justice in hopes of republishing the NPRM to allow for the retention on nonserious offenses.

Compact Council Action: This topic was accepted for information only.

(Attachment 21)

Topic #27 Report on the CJIS APB's Working Groups Topic – Direct Posting of Dispositions to Pseudo-Pointer Arrest Records Stored in the NGI

Mr. Larry E. Zinn, II, FBI CJIS Division staff, provided the report on the CJIS APB's Working Groups Topic on direct posting of dispositions to pseudo-pointer arrest records stored in the NGI System. Mr. Zinn first provided background on state pointers versus FBI pseudo-pointers within the III, noting that criminal history records indexed in the III with a state pointer are maintained and provided by the state, while criminal history records indexed with an FBI pseudo-pointer are maintained and provided by the FBI. He noted that today, the FBI CJIS Division only accepts and updates state dispositions that have been routed through the SIB to the FBI for both state pointers and FBI pseudo-pointers.

Mr. Zinn outlined a proposed policy change to allow for quick and efficient posting of dispositions to FBI pseudo-pointer records. He noted that FBI contractors are currently researching federal arrests with missing dispositions and directly posting the dispositions to the record once obtained. Mr. Zinn stated that the proposal would expand this to allow FBI contractors to assist with locating missing dispositions on pseudo-pointer records. The proposed policy change would allow the FBI CJIS Division to post the disposition directly to the pseudo-pointer record prior to sending the disposition to the SIB. Mr. Zinn noted that the ultimate goal remains for each state to take ownership of all its pseudo-pointer records and this proposal is intended to ensure the most complete and accurate records are available.

Mr. Zinn reported that during the fall 2016 APB Identification Services (IS) Subcommittee meeting, the proposal was approved with a caveat that states must confirm willingness to participate.

Compact Council Action: This topic was accepted for information only.

Topic #28 Report on the CJIS APB's Working Groups Topic – Update Regarding the Dissemination of Disposition Leads Obtained by the OPM

Mr. Larry E. Zinn, II, FBI CJIS Division staff, provided an update regarding the dissemination of disposition leads obtained by the OPM. Mr. Zinn first provided background, noting that in 2010, the CJIS Division began receiving disposition lead information obtained by the OPM during background investigations to be forwarded to the respected SIBs pursuant to an APB motion approved by the FBI Director. The information shared by the OPM did not include source documents as outlined in the 2010 APB recommendation. The FBI CJIS Division contacted all states receiving these disposition leads from OPM to determine if the information was useful. Mr. Zinn stated that three states reported finding the disposition leads useful, six states reported finding the information not useful, and 39 states failed to respond. In fall 2016, the APB IS Subcommittee was presented with this information and recommended that the OPM discontinue forwarding investigative information to the FBI CJIS Division to sort and provide to SIBs, noting that states wishing to receive such information should contact the OPM directly.

Compact Council Action: This topic was accepted for information only.

Topic #29 National Fingerprint File Quarterly Statistics

Staff paper provided for information only, not presented.

Topic #30 Next Generation Identification Status Report

Staff paper provided for information only, not presented.

**National Crime Prevention and Privacy
Compact Council Meeting
St. Louis, Missouri
November 2-3, 2016
List of Attachments**

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List of meeting attendees

Attachment (2)

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Attachment (3)

Handout #1 – APB Update presentation

Attachment (4)

Handout #1 – TSA’s Implementation of Rap Back Services presentation

Attachment (5)

Handout #1 – Child Care and Development Block Grant Act Update presentation

Attachment (6)

Handout #1 – Rap Back Focus Group Update presentation

Attachment (7)

Handout #1 – Rap Back Implementation Status presentation

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Handout #1 – BJS Update presentation

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Handout #1 – Federal Partners Report presentation

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Handout #1 – Update on the NFF Qualification Requirements Focus Group presentation

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Handout #1 – Departmental Order Update presentation

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Handout #1 – Report on the CJIS APB’s Working Groups Topic – FBI’s Compliance with 28 CFR Section 20.32 Regarding the Storage of Nonserious Offenses in the NGI presentation